IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 1085 of 2006 (S/S)

1. Smt Sunita Negi W/o G.S. Negi presently posted as Assistant Teacher, Purva Madhyamik Vidyalaya Judli Vikas Nagar, Dehradun.
2. Smt. Rama Bisht W/o Manjeet Singh Bisht presently posted as Assistant Teacher, Purva Madhyamik Vidyalaya Judli Vikas Nagar Dehradun
3. Smt. Sarita Rani, presently posted as Assistant Teacher, Purva Madhyamik Vidyalaya Kuhal vikasnagar, Dehradun.

.....**Petitioners**

Versus

1. State of Uttaranchal through Secretary Education (Basic), Dehradun.
2. Basic Shiksha Adhikari, Dehradun.

.....**Respondents**

Hon'ble M.M.Ghildiyal, J.

Heard Sri Anil Dabral, learned counsel for the petitioners and learned Standing counsel for the respondents.

By means of this writ petition, the petitioner has prayed to issue a writ, order or direction in the nature of mandamus directing the respondents to pay the promoted pay scale of Rs. 5500-175-9000 on the post of Assistant Teacher, Junior High School.

The stand of the petitioners is that they were initially appointed as assistant Teacher in the primary school. The petitioners were promoted vide order dated 28.06.2004 on the post of Assistant Teacher, Junior High School along with several other persons. Later on vide order dated 16.08.2004, the said promotion orders were cancelled by the District Basic Education Officer, Dehradun without giving any opportunity to the petitioners.

Aggrieved with the order of cancellation of their promotions, the petitioners preferred this writ petition and this Court on 08.08.2006 passed an order directing the respondents to show cause by filling counter affidavit within a period of three weeks as to why the petitioners were not being paid promotional pay scales.

The learned counsel for the petitioner has submitted that the similarly situated persons have also filed writ petition and this Court has stayed the operation of the order dated 16.08.2004 and, as such, they are getting promotional pay scale. Though the petitioners are also working on the promotional post till date, they are not getting the promotional pay scale.

From perusal of the order dated 16th August, 2004, it is clear that neither any opportunity of hearing was given to the petitioners prior to passing of impugned order dated 16th August, 2004 cancelling the promotion order nor any reason has been recorded in the aforesaid order as to why the promotion order is being cancelled by the respondents. If the respondents have reason to cancel the aforesaid promotion, they may pass fresh order after affording opportunity of hearing to the petitioners and, in the meantime, if similarly other situated persons are already getting the promotional pay scale and petitioners are also working on the promotional post they shall be paid the pay scale for which they are entitled in accordance with law.

With this direction, the writ petition and misc. application no. 445 of 2007 are finally disposed of.

05.04.2007 **(M.M. Ghildiyal, J.)**
VKS